

RIVER ISLANDS

A T L A T H R O P

November 29, 2007

Members of the Governor's Blue Ribbon Task Force
Delta Vision
650 Capitol Mall
Sacramento, CA 95814

RE: Vision for California's Delta - Third Draft (Revised November 19, 2007)

Honorable Members of the Delta Vision Blue Ribbon Task Force:

We have just reviewed the latest draft of the Blue Ribbon Task Force's "Our Vision for California's Delta." This latest draft, prepared by your staff, contains significant changes that include ramifications that have not been fully analyzed. Our comments are outlined below:

1. Expansion of the Delta's Legal Boundaries and Private Property Rights - The Task Force should look more comprehensively at the implications of expanding the legal delta boundaries. The creation of a "new planning area" encroaching into incorporated cities and other planned urban areas could result in major changes in local land use control and could infringe upon the private property rights of land already entitled for development. While the boundaries have not yet been determined, the Task Force should take into consideration the vested rights of private property owners, as well as the effect of resulting legislation that could be adopted as a result of the Delta Vision process upon local agencies. Closely working with local agencies during the visioning process and during the drafting of a subsequent strategic plan would assist all parties in meeting mutual goals and will make passing future policy and legislation more likely.
2. Banning Development within Secondary Zone - Since 1992, local governments have adopted general plans and approved various land use entitlements within the Secondary Zone of the Delta in accordance with the Delta Protection Act. This area includes a vast existing and planned urban area, including large portions of the cities of Stockton, West Sacramento, Tracy, Brentwood, Antioch, Pittsburg and Lathrop, as well as new towns such as Mountain House that located within unincorporated areas of counties. The widespread impact to these jurisdictions, not only from a land use perspective, but from an economic perspective should be integral part of the Task Force's recommendations.
3. Consideration of Soil Types and Sea Level Elevations - We agree that there are certain areas in the Delta within a "deep flood plain" that would be under water at any time if levees surrounding those areas fail. Other areas are higher in elevation and are only being protected by levees during times of extreme flooding. The way that the current



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Delta Vision document is written, it appears that the Task Force seems to consider all the lands in the Delta as if they were the same elevation and the same soil type. As I am sure the panel is aware certain areas have soil types that are conducive to subsidence, e.g. peat soils, while there are other areas that do not. Additionally, there are portions of the Delta that are at or in some cases significantly below sea level while others, such as those in many areas of the Secondary Zone, are significantly higher than sea level. Soils types and sea level elevations differ significantly and this fact should be considered in the Task Force's final recommendations.

4. Creation of a "Super Agency" for Delta Governance - the creation of a single legal entity that would control virtually all land use within the Delta creates both political and administrative efficiency, but could also, if not properly implemented, cause local agencies to take issue with the Panel's recommendations. The police powers given to counties and municipalities are a subject of a constitutional amendment, and often, such proposals are taken to a vote of the people through the initiative process. Since the California constitution strongly protects the corporate existence of cities and counties and grants them broad plenary home rule powers, change to those powers should be preceded by considerable buy-in from the local agencies affected.
5. Immediate Prohibition of Development - the recommendation that the State immediately halt all planning and development efforts in and around the Delta to "prevent a rush to establish development entitlements," is perhaps the most controversial proposal in the third draft. The Task Force should take into account the current housing and commercial retail markets which are significantly depressed. By shutting down all development in and around the Delta, the State would be deeply exacerbating this situation. Again, a systematic application of policies to areas that should be protected from development needs to be implemented along with the protection of private property rights and existing vested entitlements. The Task Force should also realize that there is significant bonded indebtedness by local public agencies in the Delta that are real property based and an immediate prohibition against development could cause these bonds to default. Also, there would be an extreme economic cost involved in the procurement of land already approved for development through any eminent domain process. Both issues are considerable financial issues for the State to consider in any situation, but especially in these uncertain economic times. Finally, we believe that any land that is currently entitled for development should be "grandfathered in" under any circumstance.
6. Lack of Local Stakeholder Involvement - while we commend the Panel on its inclusion of many different stakeholders in its process and the openness of its public meetings, it has not reached out enough to individual property owners or local agencies that are affected most by the Panel's recommendations. A collaborative approach that meets mutual goals and addresses specific concerns of individual property owners, as well as local governments that potentially have the most to lose in this process will be most effective. We suggest that the Task Force target its notices to all properties in the study area and to

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work directly with all counties, cities, reclamation districts and other local governments that are located in the legal Delta by encouraging an on-going dialogue.

I urge you to take these comments into consideration at your hearings of November 29th and 30th and to begin to work collaboratively with local land owners, local agencies and the development community before the next draft of the Delta Vision policy document is issued.

If you have any questions, please feel free to contact me at the numbers shown on the letterhead or email me at sdelloso@cambaygroup.com.

Sincerely,



Susan Dell'Osso
Project Director
River Islands at Lathrop

cc: Hon. U.S. Congressman Dennis Cardoza
Hon. State Senator Michael Machado
Mike Chrisman, Secretary, Resources Agency
Lester Snow, Director, Department of Water Resources
Mayor and Members of the Lathrop City Council
John Herrick, South Delta Water Agency
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